

Act No. 90
Public Acts of 2003
Approved by the Governor
July 24, 2003
Filed with the Secretary of State
July 24, 2003
EFFECTIVE DATE: July 24, 2003

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senator Jacobs

ENROLLED SENATE BILL No. 38

AN ACT to amend 1869 PA 12, entitled "An act to authorize and encourage the formation of corporations to establish rural cemeteries; to provide for the care and maintenance thereof; to provide for the revision and codification of the laws relating to cemeteries, mausoleums, crypts, vaults, crematoriums, and other means of disposing of the dead; to make an appropriation therefor; and to impose certain duties upon the department of commerce," by amending section 7a (MCL 456.107a).

The People of the State of Michigan enact:

Sec. 7a. (1) The fund required to be set aside under section 7 for perpetual care regarding cemeteries established after March 10, 1967, or mausoleums which are not located in the confines of a dedicated cemetery and are established after March 10, 1967, shall be created by the deposit of \$25,000.00 into the fund before any sale of burial rights, entombment rights or columbarium rights is made.

(2) With respect to all cemeteries or mausoleums, whether established before or after March 10, 1967, the fund shall be added to by payment, perpetually, each month of not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights made after March 10, 1967. No total deposit for a single adult burial right sale or assignment shall be less than \$20.00. Notwithstanding the minimum amount required to be paid into the endowment fund from the proceeds of sales of lots or burial rights, any cemetery that has an endowment fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery, may apply to the cemetery commission for a waiver of the 15% or \$20.00 minimum requirement. The cemetery commission shall take testimony and investigate as it considers advisable pursuant to the application. If the cemetery commission determines that the applicant has an endowment fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery and that the income from the fund is sufficient to meet the then current cost of keeping the applicant's cemetery in good condition, it shall grant a waiver of the 15% and \$20.00 minimum requirement and it shall grant appropriate modifications with respect to contributions to the fund.

(3) No portion of the funds required to be set aside under section 7 shall be used directly or indirectly for salaries of the officers or directors of the cemetery association or corporation and only the earnings from the funds shall be used for perpetual care.

(4) The endowment care fund may be administered by the board of directors itself, or by the trustees, individual or corporate, as it may select under the terms of a trust instrument or declaration. If it selects trustees to administer the fund, its liability shall be limited to reasonable care in the selection. Directors may serve as trustees if at least 2 members of the board are selected.

(5) The funds established under this section shall be invested subject to section 7302 of the estates and protected individuals code, 1998 PA 386, MCL 700.7302.

(6) In addition to all other remedies at law or in equity that any interested party may have, the attorney general and the circuit court of the county in which the cemetery is located shall have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment care fund trusts without regard to uncertainty or indefiniteness of its beneficiaries.

(7) As used in this section, "perpetual care" means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; raking, cleaning, filling, seeding, and sodding of graves; replacement, pruning, or removal of shrubs and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 37.
- (b) Senate Bill No. 39.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor

